

Exhibit 2

RESPONSE UNDER 37 CFR 1.116
EXPEDITED PROCEDURE
EXAMINING GROUP 2465
Docket No.: 1454.1808

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Stefan BERNDT et al.

Serial No. 11/662,978

Group Art Unit: 2465

Confirmation No. 2525

Filed: March 16, 2007

Examiner: Duc Chi Ho

For: MONITORING CONDITION OF NETWORK WITH DISTRIBUTED COMPONENTS

AMENDMENT AFTER FINAL REJECTION

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Attention: **BOX AF**

Sir:

In response to the Office Action mailed July 20, 2010, an Amendment was filed on September 30, 2010. An Advisory Action was issued indicating the Amendment of September 30, 2010 will not be entered.

Applicants respectfully request that the Examiner consider this Amendment along with a Request for Continued Examination submitted herewith.

A Petition for a one-month extension of time, together with the requisite fee for same, is submitted herewith, thereby extending the period for response to November 20, 2010.

Reconsideration of the claims is respectfully requested. The following remarks are respectfully submitted.

A Request for Continued Examination is submitted herewith.

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IN THE CLAIMS:

The text of all pending claims, (including withdrawn claims) is set forth below. Cancelled and not entered claims are indicated with claim number and status only. The claims as listed below show added text with underlining and deleted text with ~~strikethrough~~. The status of each claim is indicated with one of (original), (currently amended), (cancelled), (withdrawn), (new), (previously presented), or (not entered).

Please AMEND claims in accordance with the following:

1-17. (CANCELLED)

18. (CURRENTLY AMENDED) A method for monitoring a system condition of a network with distributed components organized in a logical ring structure, comprising:

each component in the system monitoring only a single respective neighboring component among said distributed components that is a predecessor or successor of said each component in the logical ring structure to determine a current condition of the respective neighboring component; and

each component in the system informing all other components of the system about the current condition of the respective neighboring component when the current condition corresponds to at least one predefined condition.

19. (PREVIOUSLY PRESENTED) The method as claimed in claim 18, wherein the at least one predefined condition is at least one of a functional incapacity corresponding to an offline condition and a functional capacity corresponding to an online condition.

20. (PREVIOUSLY PRESENTED) The method as claimed in claim 19, wherein at least one of said monitoring of the respective neighboring component and determination of the current condition of the respective neighboring component is carried out based on a leasing method.

21. (PREVIOUSLY PRESENTED) The method as claimed in claim 20, wherein with regard to the leasing method, an "Alive" message is sent from the respective neighboring component.

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22. (PREVIOUSLY PRESENTED) The method as claimed in claim 21, wherein the "Alive" information is sent periodically.

23. (PREVIOUSLY PRESENTED) The method as claimed in claim 22, wherein the functional incapacity of the neighboring component is determined if the respective neighboring component does not send any "Alive" information for a predetermined period of time.

24. (PREVIOUSLY PRESENTED) The method as claimed in claim 23, wherein said informing all the other components about the predefined condition of the respective neighboring component is carried out using an "Inform All" method.

25. (PREVIOUSLY PRESENTED) The method as claimed in claim 24, further comprising, with regard to the "Inform All" method, performing an acknowledgment process by each of the other components, in which each of the other components, if it has received information about the predefined condition of the respective neighboring component, confirms receipt of the information, by sending an "Acknowledgment" message.

26. (PREVIOUSLY PRESENTED) The method as claimed in claim 25, wherein the "Acknowledgment" message is sent to the component which has determined the predefined condition of the respective neighboring component.

27. (PREVIOUSLY PRESENTED) The method as claimed in claim 26, further comprising determining the predefined condition for any component which does not acknowledge the receipt of the information about the predefined condition of the respective neighboring component.

28. (PREVIOUSLY PRESENTED) The method as claimed in claim 27, further comprising in each component storing a local list of conditions of the other components.

29. (PREVIOUSLY PRESENTED) The method as claimed in claim 28, wherein the respective neighboring component is one of a predecessor component and a successor component in the logical ring structure.

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30. (PREVIOUSLY PRESENTED) The method as claimed in claim 29, wherein the network is one of a stationary communication network and a telephone network and the components are communication servers.

31. (CURRENTLY AMENDED) At least one computer-readable data medium encoded with at least one computer program that when executed by at least one processor performs a method comprising:

each component in a logical ring structure monitoring only a single neighboring component among distributed components that is a predecessor or successor of said each component in the logical ring structure to determine a current condition of the neighboring component; and

each component in the logical ring structure informing all other components of the system about the current condition of the neighboring component when the current condition corresponds to a predefined condition.

32. (CURRENTLY AMENDED) A network with distributed components, comprising:

components organized in a logical ring structure, each component monitoring only a single respective neighboring component among components that is a predecessor or successor of said each component in the logical ring structure to determine a current condition of the respective neighboring component and informing all other components of said network when the current condition of the respective neighboring component corresponds to a predefined condition.

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REMARKS:

In the Office Action mailed July 20, 2010, an Amendment was filed on September 30, 2010. An Advisory Action was issued indicating the Amendment of September 30, 2010 will not be entered.

*** **

Applicants respectfully request that the Examiner disregard the Amendment of September 30, 2010 and consider this Amendment along with a Request for Continued Examination submitted herewith.

*** **

In the Office Action mailed July 20, 2010, the Examiner objected to claims 27-30 and rejected claims 18-26, 31 and 32.

Claims 18, 31 and 32 are amended herein. No new matter is presented. Claims 1-17 remain cancelled.

Thus, claims 18-32 are pending and under consideration. The rejections are traversed below.

ALLOWABLE SUBJECT MATTER:

On page 6 of the Office Action the Examiner objected to claims 27-30 and indicated that the claims would be allowable if rewritten in independent form including all of the features of intervening claims.

As indicated below, independent claim 18 is distinguishable over the cited references. Thus, at least for the same reasons, claims 27-30 should be allowed.

Therefore, withdrawal of the objection is respectfully requested.

REJECTION UNDER 35 U.S.C. § 102(e):

Claims 18-24 and 31-32 were rejected under 35 U.S.C. § 102(e) as being anticipated by Admitted Prior Art (APA).

Claim 1 recites "each component in the system monitoring only a single respective neighboring component among said distributed components that is a predecessor or successor of said each component in the logical ring structure.." and "informing all other components of the system about the current condition of the respective neighboring component." The Applicants

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respectfully submit that APA does not disclose or suggest at least this feature of claim 1. See also other claims reciting similar features.

On page 2 of the Advisory Action dated October 8, 2010, the Examiner indicated that amending the claims to include monitoring of a single respective neighboring component located before it in the logical structure would overcome the APA. Pertinent claims are amended to further clarify the invention.

In contrast to the claimed invention, the discussion on pages of 2-3 and 10 of the present application which the Examiner asserts as APA, merely discusses problems existing in current systems. However, there is no teaching of the claimed invention.

Applicants respectfully submit that a reference which merely describes a thing or a process without telling how to make it or carry it out does not support a holding of anticipation. In this case, there is no teaching in pages of 2-3 and 10 of the present application that enables the claimed invention. Further, the discussion on page 10 is in fact the Abstract of the present application and thus is part of description of the invention.

Therefore, APA does not disclose or suggest each and every element of the Applicants' claims. In order for a reference to anticipate a claim, the reference must teach each and every element of the claim (MPEP §2131). Therefore, since APA does not disclose the features recited in the independent claims, as stated above, it is respectfully submitted that the independent claims patentably distinguishes over APA, and withdrawal of the §102(e) rejection is earnestly and respectfully solicited.

Claims depending from the independent claims include all of the features of that claim plus additional features which are not disclosed by APA.

For at least the above-mentioned reasons, claims depending from the independent claims are patentably distinguishable over APA. The dependent claims are also independently patentable.

For example, as recited in claim 21, "... with regard to the leasing method, an "Alive" message is sent from the respective neighboring component." The APA does not teach or suggest these features of the claimed invention since the same discusses involvement of all components in the system.

Therefore, withdrawal of the rejection is respectfully requested.

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REJECTION UNDER 35 U.S.C. § 103(a):

Claims 25-26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the APA and in view of U.S. Patent Pub. No. 2003/0179742 (Ogier).

As mentioned above, the independent claims patentably distinguish over APA. The arguments are incorporated herein to overcome the rejection of dependent claims 25-26. Further, as Ogier merely discusses reports by each node that only pertain to part of its tree (see, paragraph 14), Ogier does not cure the deficiencies of APA regarding claims of the present application. Therefore, it is respectfully submitted that the claims also patentably distinguish over the cited references.

Further, even assuming arguendo that Ogier does disclose the features discussed by the Examiner, the Applicants respectfully submit that there is no motivation to combine the cited references. The Examiner stated that the combination of the references would be obvious in order to increase reliability of the system as topology and link-state changes of the system.

Applicants respectfully request that no reason for the particular combination asserted in the Office Action has been provided in order to establish obviousness (see, *KSR International Co. v. Teleflex Inc. (KSR)*, 82 USPQ2d 1385 (2007)). In this case, the rejection based on APA and Ogier is made by mere conclusory statements.

Applicants request that some reasoning with some rational underpinning be provided to support the legal conclusion of obviousness since absent improper hindsight the record, however, fails to provide the required evidence (rationale) of a motivation for a person of ordinary skill in the art to perform such modification.

Therefore, withdrawal of the rejection is respectfully requested.

CONCLUSION:

Claims 18, 31 and 32 are amended herein. Claims 1-17 remain cancelled. Thus, claims 18-32 are pending and under consideration.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

If there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

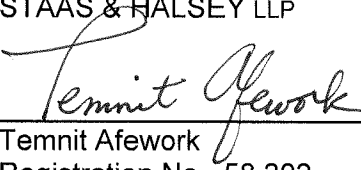
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If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 10/27/2010

By: 
Temnit Afework
Registration No. 58,202

1201 New York Ave, N.W., 7th Floor
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501